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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/679,762

10/06/2003

William R. Krenik

TI-35503

8564

23494 7590 06/05/2008  
TEXAS INSTRUMENTS INCORPORATED  
P O BOX 655474, M/S 3999  
DALLAS, TX 75265

EXAMINER

SANTIAGO CORDERO, MARIVELISSE

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

06/05/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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uspto@dlemail.itg.ti.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/679,762	<b>Applicant(s)</b> KRENIK ET AL.	
	<b>Examiner</b> MARIVELISSE SANTIAGO-CORDERO	<b>Art Unit</b> 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 and 46-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-23 and 46-51 is/are rejected.
- 7) ☒ Claim(s) 7-10 and 24-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed on 2/20/2008 have been fully considered but they are not persuasive.

Regarding claims 1-3, 11-12, 14-16, 20, and 22-23, with the regards to the Pathak reference, Applicant argues that Pathak's subscriber stations (equivalent of applicant's mobile) and base station does not make decisions in mutual manner (Remarks: page 13, 1<sup>st</sup> full paragraph); and as such, Pathak fails to teach or suggest that his network utilization management center(s) participate in a mutual agreement with another wireless communication apparatus as required by claim 1 (Remarks: page 13, last paragraph). In response, the Examiner respectfully disagrees. Pathak discloses that the subscriber utilization client (SUC) can inform the NUM of required parameters for a connection and/or negotiate with the network utilization manager (NUM) to establish connection (col. 10, lines 1-5; citation also admitted by Applicant in the remarks (page 13, 1<sup>st</sup> full paragraph)). Negotiation, by definition, is conferring with another or others in order to come to terms or reach an agreement and/or to arrange or settle by discussion and mutual agreement. In addition, Pathak discloses that the NUM can determine the requirements for a connection by reference to the type of requested connection, by previously agreed service levels defined for a subscriber station or by any other suitable method (col. 3, lines 36-40). Furthermore, Pathak discloses agreed data rates and/or quality of service levels (col. 9, lines 32-42) and additional agreed connections between SUC and NUM (col. 12, lines 34-38). Accordingly, Pathak does disclose subscriber stations and base station making decisions in mutual manner as argued.

Moreover, it is noted that the claims are directed to an apparatus. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997); see also *In re Swinehart*, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). Apparatus claims cover what a device is, not what a device does.” *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). See MPEP 2114.

Applicant argues that the subscriber stations are not mobile (Remarks: page 13, last paragraph). In response, the claim does not uniquely and particularly define the term “mobile” so as to distinguish it from the applied art. During patent examination, the claim must be given their broadest reasonable interpretation; see MPEP 2111. Pathak’s subscriber station is capable of changing quickly from one state or condition to another (See Fig. 2 and corresponding description, e.g., col. 6, line 61 through col. 7, line 2). In addition, the subscriber station can include a radio, compatible with emerging Bluetooth and IEEE 802.11 standards, as a wireless media port to allow wireless communications between subscriber stations and appropriately enabled devices in their vicinity; thus supporting wireless mobile communications. Accordingly, the subscriber station can be fairly characterized as a wireless mobile communication apparatus as claimed.

Regarding claims 1-6, 11-23, 46-47, and 49, with the regards to the Rune reference, Applicant's arguments are moot in view of the new grounds of rejection. However, since some of the references still apply, regarding claim 47, Applicant argues that none of the listed page response parameters of Rune define information required to establish a transmission and reception of wireless communication session and that conspicuous by its absence are the type of parameters presented in Applicant's specification (Remarks: page 22, last paragraph). In response, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant further argues that Rune's parameters are not used to establish a communications link, but define the status of the paged device with respect to its local piconet (Remarks: page 22, last paragraph). In response, the Examiner respectfully disagrees. Rune discloses that the inquiring unit(s) can use this information when making the decision as to the units to which it should try to establish connections (col. 12, lines 20-22); thus, used to establish a communication link.

Regarding claims 1-6, 11-13, 15-21, 23, 46, 50-51, with the regards to the Naddell reference, Applicant argues that there is no direct mutual decision between the wireless communication devices to establish a communications link (Remarks: page 19, 1<sup>st</sup> full paragraph). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., **direct** mutual decision) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim only requires participating

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in a mutual agreement with another wireless communication apparatus, whether said wireless communication session will be established; there is no direct decision claimed.

Applicant further argues that Naddell's decisions are based upon logical constructs, whereas Applicant's invention relates to mutual agreement of communication parameters (communication information) required to establish a communications link (Remarks: page 19, last paragraph). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., mutual agreement of communication parameters) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant's arguments are more specific than claims. The claims state a resource controller that participates in a mutual agreement with another wireless communication apparatus, whether said wireless communication session will be established and for participating in wireless communication of communication information for use in deciding whether said wireless communication will be established, which is different from mutual agreement of communication parameters as argued.

Naddell discloses a communication device desiring to establish a communication transmitting an inbound signaling word including the identity of the requesting device, the particular service requested, a subject matter identifier that identifies the particular subject matter, and optionally, a limitation identifier (col. 23, line 63 through col. 3, line 3). The controller will identify potential participant of the communication based on entries in a subject matter database, the subject matter identifier, the limitation identifier (col. 3, lines 9-16), and

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based on communications devices participation parameters (col. 3, lines 33-36) and will send an outbound signaling word to the potential members. Each of the potential members determines whether it is qualified to participate in the communication based on subject matters of interest, limitations of the operator, participation parameters, and attributes and will respond with an inbound signaling word indicating whether qualifies to participate in the communication (col. 3, line 48 through col. 4, line 5). Once the controller identifies the other participant, it informs the requesting device of the identity of the identified participant; consequently, the requesting device has the option of establishing communication with the identified participant, cancelling the communication, modifying its subject matter identifier and/or including or modifying its limitation identifiers as feedback to the controller; finally, the controller process the communication accordingly (col. 2, lines 30-34; col. 4, lines 6-17). Therefore, Naddell does disclose participating in a mutual agreement with another wireless communication apparatus (via the controller), whether said wireless communication session will be established and for participating in wireless communication of communication information for use in deciding whether said wireless communication will be established (note the particular service requested, a subject matter identifier that identifies the particular subject matter, and optionally, a limitation identifier; all fairly characterized as communication information).

As to claim 46, Applicant argues that Naddell fails to disclose the second wireless communication channel (Remarks: page 20, 1<sup>st</sup> full paragraph). In response, it is inherent in wireless communications that devices communicate with each other via channels, either the same or different. Naddell's inbound and outbound signaling words are inherently transmitted via communication channels. Nothing in the claim specifies that the second channel is different

from the first channel, as Applicant intends to argue. Accordingly, Naddell explicitly discloses first and second wireless communication channels as claimed.

Regarding claim 48, Applicant argues that Naddell's use of location is for the purpose of restricting communication to only members located within a geographic area irrespective of direction (Remarks: page 23, 1<sup>st</sup> paragraph). Applicant further directs the Examiner to the specification (page 9, lines 8-10) in which relative direction assists the two or more wireless devices to communicate using directional transmit/receive antennas (Remarks: page 23, 1<sup>st</sup> paragraph). In response, the Examiner respectfully disagrees. At the outset, the portion of the specification cited by Applicant describes that examples of communication parameters (also referred to herein as communication resources or spectrum resources) include frequency channel, spreading code, modulation, time slot(s), transmit power, direction, etc.; there is no mentioning of relative direction assisting the two or more wireless devices to communicate using directional transmit/receive antennas. Nevertheless, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Naddell's location information is a limitation identifier that indicate that only members located within a geographic area are to participate; thus, directing communications to only those members. The claim does not uniquely and particularly define the term "directing" so as to distinguish the applied art. In accordance with MPEP 2111, during patent examination, the claim must be given their broadest reasonable interpretation. The term "directing" is a broad term; therefore, broadly interpreted. As stated above, Naddell's location information is a limitation identifier that indicate that only members



located within a geographic area are to participate; thus, directing communications to only those members and not directing communications to devices in other areas.

Regarding claims 7-10 and 24-27, Applicant's arguments are moot.

***Claim Objections***

2. Claim 1 and its dependents thereof are objected to because of the following informalities: the term "another wireless communication apparatus" in line 7 appears to be referring the "another wireless communication apparatus" previously recited in line 5; if so, either one of the terms --the-- or --said-- should precede the term line 7 in order to be consistent with claim terminology.. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 48 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 48 recites the limitation "said location information to be used for directing communications". Such limitation was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification discloses that examples of communication parameters (also referred to herein as communication resources or

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spectrum resources) include frequency channel, spreading code, modulation, time slot(s), transmit power, direction, etc (page 9, lines 8-10). The specification further discloses that using conventional techniques, the mobile station can monitor power levels and directionality for each available frequency channel (page 14, lines 13-15). Nowhere in the specification had the Examiner found support for the specific claimed limitation “said location information to be used for directing communications”. Applicant is welcomed to point out where in the specification the Examiner can find support for this limitation, if Applicant believes otherwise.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 11-12, 14-16, 20 and 22-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Pathak et al. (hereinafter “Pathak”; Patent No.: US 7,016,317).

Regarding claim 1, Pathak discloses a wireless mobile communication apparatus, comprising:

a wireless communication interface (Figs. 1-2; references 100-104);

a session manager (Fig. 2, reference 124) coupled to said wireless communication interface and cooperable therewith for participating in wireless communication of a request to establish a wireless communication session with another wireless communication apparatus

(from col. 9, line 59 through col. 10, line 4; col. 10, lines 36-43 and from line 63 through col. 11, line 3; col. 12, lines 4-10); and

said session manager including a resource controller (Fig. 2, reference 136) that participates in a mutual agreement with another wireless communication apparatus (col. 10, lines 1-5; col. 3, lines 36-40; col. 9, lines 32-42; col. 12, lines 34-38), whether said wireless communication session will be established (col. 9, lines 45-53, from line 59 through col. 10, line 5; col. 10, lines 20-43 and 63 through col. 11, line 3; col. 12, lines 4-10), said resource controller cooperable with said wireless communication interface, after said request, for participating in wireless communication of communication information for use in deciding whether said wireless communication session will be established (col. 9, lines 45-53, from line 59 through col. 10, line 5; col. 10, lines 20-43 and 63 through col. 11, line 3; col. 12, lines 4-10).

Regarding claim 2, Pathak discloses wherein said session manager is cooperable with said wireless communication interface for transmitting said request (from col. 9, line 59 through col. 10, lines 4; col. 10, lines 36-43 and from line 63 through col. 11, line 3; col. 12, lines 4-10).

Regarding claim 3, Pathak discloses wherein said resource controller is cooperable with said wireless communication interface for receiving said information (col. 9, lines 45-53, from line 59 through col. 10, line 5; col. 10, lines 20-43 and 63 through col. 11, line 3; col. 12, lines 4-10; note that the resource controller negotiates with the network utilization manager (NUM) and it is informed by the NUM that desired resources are available).

Regarding claim 11, Pathak discloses wherein said resource controller is cooperable with said wireless communication interface for transmitting said information (col. 9, lines 45-53, from

line 59 through col. 10, line 5; col. 10, lines 20-43 and 63 through col. 11, line 3; col. 12, lines 4-10).

Regarding claim 12, Pathak discloses wherein said information indicates an intention to establish said communication session (from col. 9, line 59 through col. 10, line 5; col. 10, lines 36-43).

Regarding claim 14, Pathak discloses wherein the another wireless communication apparatus is a fixed-site wireless communication apparatus (Fig. 1, reference 24).

Regarding claim 15, Pathak discloses wherein said session manager is cooperable with said wireless communication interface for receiving said request (from col. 9, line 59 through col. 10, lines 4; col. 10, lines 36-43 and from line 63 through col. 11, line 3; col. 12, lines 4-10).

Regarding claim 16, Pathak discloses wherein said resource controller is cooperable with said wireless communication interface for transmitting said information (col. 9, lines 45-53, from line 59 through col. 10, line 5; col. 10, lines 20-43 and 53 through col. 11, line 3; col. 12, lines 4-10).

Regarding claim 20, Pathak discloses wherein said information indicates an intention to establish said communication session (from col. 9, line 59 through col. 10, line 5; col. 10, lines 36-43).

Regarding claim 22, Pathak discloses wherein the another wireless communication apparatus is a fixed-site wireless communication apparatus (Fig. 1, reference 24).

Regarding claim 23, Pathak discloses wherein said resource controller is cooperable with said wireless communication interface for receiving said information (col. 9, lines 45-53, from

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line 59 through col. 10, line 5; col. 10, lines 20-43 and 53 through col. 11, line 3; col. 12, lines 4-10).

7. Claims 1-6, 11-13, 15-21, 23, 46, and 50-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Naddell et al. (hereinafter “Naddell”; Patent No.: US 6,253,091).

Regarding claim 1, Naddell discloses a wireless mobile communication apparatus (Figs. 1-2, references 18, 20, and/or 22), comprising:

a wireless communication interface (Figs. 1-2; note the that interface is inherently present);

a session manager (Fig. 2, reference 42) coupled to said wireless communication interface and cooperable therewith for participating in wireless communication of a request to establish a wireless communication session with another wireless communication apparatus (Abstract; Fig. 2, references 44 and/or 46; col. 2, lines 17-19 and 63-67); and

said session manager including a resource controller (Fig. 2, reference 42) that participates in a mutual agreement with another wireless communication apparatus, whether said wireless communication session will be established (Abstract; Fig. 2, references 48 and/or 50; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24), said resource controller cooperable with said wireless communication interface, after said request, for participating in wireless communication of communication information for use in deciding whether said wireless communication session will be established (Abstract; Fig. 2; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24).

Regarding claim 2, Naddell discloses wherein said session manager is cooperable with said wireless communication interface for transmitting said request (Abstract; Fig. 2, reference 46; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24).

Regarding claim 3, Naddell discloses wherein said resource controller is cooperable with said wireless communication interface for receiving said information (Abstract; Fig. 2, reference 48; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24).

Regarding claim 4, Naddell discloses wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 2, references 18, 20, and/or 22; col. 1, lines 12-20) and said resource controller is cooperable with said wireless communication interface for receiving said information from the another wireless communication apparatus ().

Regarding claim 5, Naddell discloses wherein said information is indicative of a likelihood of successful execution of said communication session (col. 3, line 48 through col. 4, line 24; col. 5, line 45-64).

Regarding claim 6, Naddell discloses wherein said information includes one of information indicative of a location of the another wireless mobile communication apparatus, information indicative of wireless communication channel conditions at the another wireless mobile communication apparatus, information indicative of wireless communication resource use in a previous wireless communication session involving the another wireless mobile communication apparatus, and information indicative of operational capabilities of the another wireless mobile communication apparatus (col. 3, line 48 through col. 4, line 24; col. 5, line 45-64).

Regarding claim 11, Naddell discloses wherein said resource controller is cooperable with said wireless communication interface for transmitting said information (Fig. 2, reference 50).

Regarding claim 12, Naddell discloses wherein information indicates an intention to establish said communication session (col. 3, line 48 through col. 4, line 24; col. 5, line 45-64).

Regarding claim 13, Naddell discloses wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 2, references 18, 20, and/or 22; col. 1, lines 12-20).

Regarding claim 15, Naddell discloses wherein said session manager is cooperable with said wireless communication interface for receiving said request (Fig. 2, reference 44).

Regarding claim 16, Naddell discloses wherein said resource controller is cooperable with said wireless communication interface for transmitting said information (Fig. 2, reference 50).

Regarding claim 17, Naddell discloses wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 2, references 18, 20, and/or 22; col. 1, lines 12-20) and said resource controller is cooperable with said wireless communication interface for transmitting said information to the another wireless communication apparatus (Fig. 2, references 50; col. 3, line 48 through col. 4, line 24; col. 5, line 45-64).

Regarding claim 18, Naddell discloses wherein said information is indicative of a likelihood of successful execution of said communication session (col. 3, line 48 through col. 4, line 24; col. 5, line 45-64).

Regarding claim 19, Naddell discloses wherein said information includes one of information indicative of a location of the wireless mobile communication apparatus, information indicative of wireless communication channel conditions at the wireless mobile communication apparatus, information indicative of wireless communication resource use in a previous wireless communication session involving the wireless mobile communication apparatus, and information indicative of operational capabilities of the wireless mobile communication apparatus (col. 3, line 48 through col. 4, line 24; col. 5, line 45-64).

Regarding claim 20, Naddell discloses wherein information indicates an intention to establish said communication session (col. 3, line 48 through col. 4, line 24; col. 5, line 45-64).

Regarding claim 21, Naddell discloses wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 2, references 18, 20, and/or 22; col. 1, lines 12-20).

Regarding claim 23, Naddell discloses wherein said resource controller is cooperable with said wireless communication interface for receiving said information (Fig. 2, reference 48; col. 3, line 48 through col. 4, line 24).

Regarding claim 46, Naddell discloses a wireless mobile communication apparatus (Fig. 2, references 18, 20, and/or 22; col. 1, lines 12-20), comprising:

- a wireless communication interface (Figs. 1-2; note the that interface is inherently present);

- a session manager coupled to said wireless communication interface and cooperable therewith for participating in wireless communication of a request to establish, on a first wireless communication channel, a communication session (Abstract; Fig. 7, note the Inquiry message;



col. 15, line 60 through col. 16, line 9; note that a first wireless communication channel is inherently present); and

said session manager including a resource controller for participating with another wireless communication apparatus in mutually deciding whether said request will be communicated (Abstract; Fig. 2, references 48 and/or 50; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24), said resource controller cooperable with said wireless communication interface for participating in wireless communication, via a second wireless communication channel, of communication information for use in deciding whether said request will be communicated (Abstract; Fig. 2, references 48 and/or 50; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24; note the second communication channel is inherently present).

Regarding claim 50, Naddell discloses wherein said session manager is cooperable with said wireless communication interface for transmitting said request (Abstract; Fig. 2, reference 46; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24), wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 2, references 18, 20, and/or 24; col. 1, lines 12-20), wherein said resource controller is cooperable with said wireless communication interface for receiving said information from the another wireless communication apparatus (Fig. 2, references 48; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24), wherein said information is indicative of a likelihood of successful execution of said communication session (col. 3, line 48 through col. 4, line 24; col. 5, line 45-64), and including an indicator coupled to said resource controller for providing to a user an indication of said likelihood of successful execution of said communication session (col. 4, lines 17-55).

Regarding claim 51, Rune discloses wherein said session manager is cooperable with said communication interface for receiving said request (Abstract; Fig. 2, reference 44; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24), wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 2, references 18, 20, and/or 24; col. 1, lines 12-20), wherein said resource controller is cooperable with said wireless communication interface for transmitting said information to the another wireless communication apparatus (Fig. 2, references 50; col. 2, lines 15-40; col. 3, line 48 through col. 4, line 24), wherein said information is indicative of a likelihood of successful execution of said communication session (col. 3, line 48 through col. 4, line 24; col. 5, line 45-64), and including an indicator coupled to said resource controller for providing to a user an indication of said likelihood of successful execution of said communication session (col. 4, lines 17-55).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-6, 11-23, 46-47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rune et al. (hereinafter “Rune”; Patent No.: US 6,901,057), in view of Milley et al. (hereinafter “Milley”; Pub. No.: 2002/0186676).

Regarding claim 1, Rune discloses a wireless mobile communication apparatus (Fig. 7, either one of “first BT unit” or “third BT unit”), comprising:

a wireless communication interface (Fig. 7; col. 15, line 60 through col. 16, line 9);

a session manager coupled to said wireless communication interface and cooperable therewith for participating in wireless communication of a request to establish a wireless communication session with another wireless communication apparatus (Abstract; Fig. 7, note the Inquiry message; col. 15, line 60 through col. 16, line 9); and

said session manager including a resource controller that participates in whether said wireless communication session will be established (Abstract; Fig. 7; col. 7, lines 29-36; col. 9, lines 7-18; col. 11, line 66 through col. 12, line 22), said resource controller cooperable with said wireless communication interface, after said request, for participating in wireless communication of communication information for use in deciding whether said wireless communication session will be established (Abstract; Fig. 7; col. 7, lines 29-36; col. 9, lines 7-18; col. 11, line 66 through col. 12, line 22; col. 16, lines 9-32; note the Inquiry Response message).

Rune fails to specifically disclose that participates in a mutual agreement with another wireless communication apparatus. Note, however, that Rune suggests this feature; note that Fig. 3 shows the protocol layers of a network formed by units adapted to communication according to the Bluetooth protocol, including the link manager protocol (LMP), an existing Bluetooth specific protocol responsible for link setup between devices that deals with control and negotiation of link parameters.

Nevertheless, in the same field of endeavor, Milley discloses that participates in a mutual agreement with another wireless communication apparatus (Fig. 12, reference 688; paragraph [0165]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant for the resource controller of Rune to participate in a mutual agreement

with another wireless communication apparatus as suggested by Milley for the advantages of establishing network parameters and/or trust relationships (Milley: paragraph [0165]), determining if the devices are capable of communicating at the assigned parameters, and increasing the efficiency of the communication.

Regarding claim 2, in the obvious combination, Rune discloses wherein said session manager is cooperable with said wireless communication interface for transmitting said request (Fig. 7, reference 800).

Regarding claim 3, in the obvious combination, Rune discloses wherein said resource controller is cooperable with said wireless communication interface for receiving said information (Fig. 7, reference 814).

Regarding claim 4, in the obvious combination, Rune discloses wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 7, note the “third BT unit”) and said resource controller is cooperable with said wireless communication interface for receiving said information from the another wireless communication apparatus (Fig. 7, reference 812).

Regarding claim 5, in the obvious combination, Rune discloses wherein said information is indicative of a likelihood of successful execution of said communication session (col. 11, line 66 through col. 12, line 22).

Regarding claim 6, in the obvious combination, Rune discloses wherein said information includes one of information indicative of a location of the another wireless mobile communication apparatus, information indicative of wireless communication channel conditions at the another wireless mobile communication apparatus, information indicative of wireless

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communication resource use in a previous wireless communication session involving the another wireless mobile communication apparatus, and information indicative of operational capabilities of the another wireless mobile communication apparatus (col. 11, line 66 through col. 12, line 22; col. 16, lines 9-33).

Regarding claim 11, in the obvious combination, Rune discloses wherein said resource controller is cooperable with said wireless communication interface for transmitting said information (Fig. 7, reference 830).

Regarding claim 12, in the obvious combination, Rune discloses wherein information indicates an intention to establish said communication session (Fig. 7, reference 830; col. 16, lines 36-54).

Regarding claim 13, in the obvious combination, Rune discloses wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 7, note the “third BT unit”).

Regarding claim 14, in the obvious combination, Rune discloses wherein the another wireless communication apparatus is a fixed-site wireless communication apparatus (col. 1, lines 25-32).

Regarding claim 15, in the obvious combination, Rune discloses wherein said session manager is cooperable with said wireless communication interface for receiving said request (Fig. 7, reference 804).

Regarding claim 16, in the obvious combination, Rune discloses wherein said resource controller is cooperable with said wireless communication interface for transmitting said information (Fig. 7, reference 812).

Regarding claim 17, in the obvious combination, Rune discloses wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 7, note the “first BT unit”) and said resource controller is cooperable with said wireless communication interface for transmitting said information to the another wireless communication apparatus (Fig. 7, reference 812).

Regarding claim 18, in the obvious combination, Rune discloses wherein said information is indicative of a likelihood of successful execution of said communication session (col. 11, line 66 through col. 12, line 22).

Regarding claim 19, in the obvious combination, Rune discloses wherein said information includes one of information indicative of a location of the wireless mobile communication apparatus, information indicative of wireless communication channel conditions at the wireless mobile communication apparatus, information indicative of wireless communication resource use in a previous wireless communication session involving the wireless mobile communication apparatus, and information indicative of operational capabilities of the wireless mobile communication apparatus (col. 11, line 66 through col. 12, line 22; col. 16, lines 9-33).

Regarding claim 20, in the obvious combination, Rune discloses wherein information indicates an intention to establish said communication session (Fig. 7; col. 16, lines 36-54).

Regarding claim 21, in the obvious combination, Rune discloses wherein the another wireless communication apparatus is a wireless mobile communication apparatus (Fig. 7).

Regarding claim 22, in the obvious combination, Rune discloses wherein the another wireless communication apparatus is a fixed-site wireless communication apparatus (col. 1, lines 25-32).

Regarding claim 23, in the obvious combination, Rune discloses wherein said resource controller is cooperable with said wireless communication interface for receiving said information (Fig. 7, reference 830).

Regarding claim 46, Rune discloses a wireless mobile communication apparatus (Fig. 7, either one of “first BT unit” or “third BT unit”), comprising:

- a wireless communication interface (Fig. 7; col. 15, line 60 through col. 16, line 9);

- a session manager coupled to said wireless communication interface and cooperable therewith for participating in wireless communication of a request to establish, on a first wireless communication channel (col. 1, lines 39-45), a communication session (Abstract; Fig. 7, note the Inquiry message; col. 15, line 60 through col. 16, line 9); and

- said session manager including a resource controller for participating with another wireless communication apparatus in deciding whether said request will be communicated (Abstract; Fig. 7; col. 7, lines 29-36; col. 9, lines 7-18; col. 11, line 66 through col. 12, line 22), said resource controller cooperable with said wireless communication interface for participating in wireless communication, via a second wireless communication channel (col. 1, lines 39-45), of communication information for use in deciding whether said request will be communicated (Abstract; Fig. 7; col. 7, lines 29-36; col. 9, lines 7-18; col. 11, line 66 through col. 12, line 22; col. 16, lines 9-32; note the Inquiry Response message).

Rune fails to specifically disclose in mutually deciding. Note, however, that Rune suggests this feature; note that Fig. 3 shows the protocol layers of a network formed by units adapted to communication according to the Bluetooth protocol, including the link manager protocol (LMP), an existing Bluetooth specific protocol responsible for link setup between devices that deals with control and negotiation of link parameters.

Nevertheless, in the same field of endeavor, Milley discloses in mutually deciding (Fig. 12, reference 688; paragraph [0165]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant for the resource controller of Rune to mutually decide as suggested by Milley for the advantages of establishing network parameters and/or trust relationships (Milley: paragraph [0165]), determining if the devices are capable of communicating at the assigned parameters, and increasing the efficiency of the communication.

Regarding claim 47, in the obvious combination, Rune discloses wherein said information identifies wireless communication resources that are currently being used by another wireless mobile communication apparatus to support a current wireless communication session (col. 11, line 66 through col. 12, line 22).

Regarding claim 49, in the obvious combination, Rune discloses wherein said information is indicative of wireless communication resource use in a previous wireless communication session involving the another wireless mobile communication session (col. 11, line 66 through col. 12, line 22).

10. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rune in view of Naddell.



Regarding claim 48, Rune discloses the apparatus of claim 47 (see above), but fails to specifically disclose wherein said information identifies a location of the another wireless mobile communication apparatus said location information to be used for directing communications.

However, in the same field of endeavor, Naddell discloses wherein said information identifies a location of the another wireless mobile communication apparatus said information identifies a location of the another wireless mobile communication apparatus said location information to be used for directing communications (col. 5, line 45 through col. 6, line 23; note that the location information is a limitation identifier that indicate that only members located within a geographic area are to participate; thus, directing communications to only those members).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to modify said information of Rune to identify a location of the another wireless mobile communication apparatus said location information to be used for directing communications as suggested by Naddell for the advantages of restricting participation to only those within a geographic area (Naddell: col. 5, lines 45-64).

#### ***Allowable Subject Matter***

11. Claims 7-10 (in combination with all the recited limitations of claims 1-3) and claims 24-27 (in combination with all the recited limitations of claims 1, 15, and 23) are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

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12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIVELISSE SANTIAGO-CORDERO whose telephone number is (571)272-7839. The examiner can normally be reached on Monday through Friday from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on (571) 272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VINCENT P. HARPER/  
Supervisory Patent Examiner, Art Unit 2617

/MARIVELISSE SANTIAGO-CORDERO/  
Examiner, Art Unit 2617